IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

DELAY CONDONATION APPLICATION NO.NIL OF 2004
IN
GOVERNMENT APPEAL No.40 of 2004

State of Uttaranchal

……Appellant/Applicant

Versus

Tikam Singh @ Bablu S/o Sri Gagraj Singh,
R/o Vill. Sarathal Madho, P.S. Dhampur, Distt. Biznor

….Respondent

Dated: December 6, 2007

Sri Prabhakar Joshi, learned brief holder for the State

HON. DHARAM VEER, J.

The present delay condonation application has been filed by the State Government for condoning the delay in filing the leave to appeal application and appeal. The leave to appeal application and the appeal has been filed along with the delay condonation application against the judgment and order dated 22.11.2003 passed by Additional District & Sessions Jude/Ist FTC, Hardwar in Sessions Trial No.43 of 1993 and Sessions Trial No.43 of 1993, whereby the learned Additional District & Sessions Judge has acquitted the respondent for an offence punishable under Section 394/397/411 of the Indian Penal Code, 1860 as well as for an offence punishable u/s 4/25 of Arms Act.

2. I have perused the delay condonation application supported by an affidavit. There is delay of 135 days in filing the appeal. The delay is not explained by sufficient cause. The day-to-day delay has also not been explained in the affidavit. It is not mentioned that after passing of the judgment and order dated 22.11.2003, as to when the matter was referred to DGC (Criminal) for opinion. It is also

not mentioned in the affidavit as to when the DGC (Criminal) has referred the matter to the Law Department. It has also not been mentioned that when the **affidavit filed along with delay condonation application was sworn on 07.06.2004, then as to why the appeal was filed on 08.07.2004.** Thus, in this way day-to-day delay has not been explained by sufficient cause.

3. For the reasons stated above, the delay condonation application is devoid of merit and is hereby dismissed. Consequently, the leave to appeal application as well as appeal, both are also dismissed accordingly.

(Dharam Veer, J.)

Dated 06.12.2007
Rajeev Dang